

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL WRIT PETITION NO. 60 OF 2021

1. Shri Tushar Sarmalkar
Age.34 years, S/o Ramdas Sarmalkar,
Yashoda Niwas, Near Kavlekar Super Market,
Porvorim-Bardez-Goa

2. Mrs. Bhati Sarmalkar,
Age.32 years W/o Turshar Sarmalkar,
Yashoda Niwas, Near Kavlekar Super Market,
Porvorim-Bardez-Goa,

3. Shri. Saiprasad Sarmalkar,
Age.38 years, S/o Ramdas Sarmalkar
Yashoda Niwas, Near Kavlekar Super Market,
Porvorim-Bardez-Goa.

4. Mrs. Shriya Sarmalkar,
Age.34 years, W/o Saiprasad Sarmalkar,
Yashoda Niwas, Near Kavlekar Super Market,
Porvorim, Bardez - Goa

5. Mrs. Sheetal Sarmalkar ,
W/o Late Ramdas Sarmalkar,
Age.64 years, Yashoda Niwas, Near Kavlekar
Super Market, Porvorim-Bardez-Goa.

.... Petitioners.

Versus

1. State of Goa Through Public Prosecutor,
(High Court of Bombay at Goa)

2. Mrs. Manisha Sarmalkar,
Age.29 years, W/o Santosh Sarmalkar,
Yashoda Niwas, Near Kavlekar Super Market,
Porvorim-Bardez-Goa
....Respondents.

Mr. Rajneesh Naik, Advocate *for the Petitioners.*

Mr. S.G. Bhobe, Public Prosecutor *for Respondent No.1.*

Mr. Vibhav Amonkar, Advocate *for Respondent No.2.*

CORAM : **REVATI MOHITE DERE &
M.S. JAWALKAR, JJ.**

DATED : **16th December 2021**

ORAL JUDGMENT : - (Per Revati Mohite Dere, J.)

- 1.** Heard learned Counsel for the parties.
- 2.** Rule. Rule is made returnable forthwith with the consent of the parties and is taken up for final disposal.
- 3.** By this petition, the petitioners seek the following two substantive prayers :

(A) For an order or direction under Section 482 of Criminal Procedure Code to quash FIR No. 13/2020, U/s.

324,354,427,506-ii registered at Women Police Station Panaji upon the Complaint of Respondent No.2

(B) That this Hon'ble Court in exercise of its jurisdiction under Section 482 Cr.P.C. be pleased to close down the DVA Proceeding in Case No. 17/DVA/2020/C and Case No.7/DVA/2020/C before the Judicial Magistrate First Class at Mapusa”

4. Perused the papers. Petitioner Nos.1 and 3 are the brothers-in-law of the respondent No.2 and Petitioner Nos.2 and 4 and petitioner No.5 are the sisters-in-law and mother-in-law respectively, of the respondent No.2. It appears that after marriage, respondent No.2 starting residing with her husband-Santosh Sarmalkar (son of petitioner No.5). After sometime, there were differences between the respondent No.2 and her husband and as such, respondent No.2 filed DVA proceedings before the learned Judicial Magistrate, First Class at Mapusa, as against her husband-Santosh Sarmalkar and her in-laws i.e. the petitioners, including her father-in-law i.e. late Ramdas Sarmalkar. The said DVA Case No. 17/DVA/2020/C is currently pending in the Court of Judicial Magistrate, First Class, at Mapusa. It appears that thereafter, respondent No.2, pursuant to an alleged incident which took place on 1st November 2020, filed an FIR as against the petitioners, being

FIR No. 13/2020, registered with the Women's Police Station, Panaji, alleging offences punishable under Sections 324, 354, 427, 506 etc. of the IPC. Thereafter, all the parties *i.e.* the petitioners, respondent No.2 and respondent No.2's husband amicably settled their disputes and decided to put an end to the litigation between the parties, including the civil suit which was filed by petitioner No.3.

5. Learned Counsel for respondent No.2 has, today filed an affidavit of the respondent No.2-Manisha Sarmalkar, dated 15th December, 2021, duly notarized. The said affidavit is taken on record. Respondent No.2, is present in person. She has tendered a xerox copy of her Aadhaar card, as proof of her identity. When asked, she reiterates the contents of the affidavit. In the said affidavit, respondent No.2 has given her no objection for quashing the FIR and closing of the DVA proceeding, as sought for by the petitioners.

6. Having regard to the nature of the dispute; the relationship between the petitioners and respondent No.2; the fact, that the parties have arrived at an amicable settlement; and considering the

affidavit of the respondent No.2, we are of the view that no useful purpose will be served by keeping the said proceedings pending.

7. Accordingly, both the proceedings are quashed in the interest of justice. The petition is allowed in terms of prayer clauses (A) and (B).

8. Rule is made absolute in the aforesaid terms and the petition is disposed of. There shall be no order as to costs.

9. All concerned to act on an authenticated copy of this order.

M.S. JAWALKAR, J.

REVATI MOHITE DERE, J.